

Forty-third Annual Report

MARYLAND STATE BOARD

OF

MOTION PICTURE CENSORS



Offices
State Office Building
301 W. Preston Street
Baltimore 1, Maryland

Forty-Third Annual Report
MARYLAND STATE BOARD
OF
MOTION PICTURE CENSORS
1958-1959

C. MORTON GOLDSTEIN

Chairman

NORMAN C. MASON

Vice-Chairman and Treasurer

WALTER S. RINGLER

Secretary

ELWOOD L. GEBHART

Administrative Assistant

Offices

State Office Building
301 West Preston Street
Baltimore 1, Maryland



J. MILLARD TAWES
Governor of Maryland

HONORABLE J. MILLARD TAWES
GOVERNOR OF MARYLAND
STATE HOUSE
ANNAPOLIS, MARYLAND

DEAR GOVERNOR TAWES:

The Maryland State Board of Motion Picture Censors takes pleasure in submitting to you herewith the forty-third Annual Report of its operations, for the fiscal period ending June 30, 1959. We detail herein, the number of films examined, the Board's action taken thereon, other pertinent data, as well as an itemization of receipts and disbursements.

WORK OF THE BOARD

During the fiscal year, the Board examined and processed a total of 7,392 subjects, of which 1,076 were original, and 6,316 were duplicates, consisting of 59,128 reels comprising 47,748,637 feet of film. Of these 7,392 subjects, 7,359 were approved without modification and 33 were modified in part, and no film was rejected in its entirety.

FINANCIAL STATEMENT

The year's total receipts were \$63,130.00 in revenue derived from fees required by law for the Board's examination of films. Notwithstanding a capital expenditure of \$3,774.35, necessary in the movement of our offices to the State Office Building and including the Pay Adjustment effective in March 1959, the sum of \$1,932.51 was reverted to the Reserve Fund from the 1959 appropriation, after defraying all expenses. The all-time sum reverting to the Treasury amounts to \$591,442.73 since the inception of the Board.

INSPECTIONS

The Board employs one full time inspector and seven part-time inspectors, in addition to a supervisor. The employment of part-time inspectors for specified areas, add to the efficiency of the Inspection and Law Enforcement program, and travel costs are eliminated.

A total of 4,960 films were inspected during the year. These inspections were of theatres throughout the State, periodically made, to check compliance with the State motion picture censorship law, and orders issued by the Board.

STATE CENSORSHIP

We are privileged to report to your Excellency, our continued activities in administering the Maryland law of Motion Picture Censorship, set forth in Article 66A of the Annotated Code of Maryland. The defined limits of our authority, are set forth in the following sections:

- 6 (a) The Board shall examine or supervise the examination of all films or views to be exhibited or used in the State of Maryland and

shall approve and license such films or views which are moral and proper, and shall disapprove such as are obscene, or such as tend, in the judgment of the Board, to debase or corrupt morals or incite to crimes. All films exclusively portraying current events or pictorial news of the day, commonly called news reels, may be exhibited without examination and no license or fees shall be required therefor.

- (b) For the purposes of this Article, a motion picture film or view shall be considered to be obscene if, when considered as a whole, its calculated purpose or dominant effect is substantially to arouse sexual desires, and if the probability of this effect is so great as to outweigh whatever other merits the film may possess.
- (c) For the purposes of this Article, a motion picture film or view shall be considered to be of such a character that its exhibition would tend to debase or corrupt morals if its dominant purpose or effect is erotic or pornographic; or if it portrays acts of sexual immorality, lust or lewdness, or if it expressly or impliedly presents such acts as desirable, acceptable or proper patterns of behavior.
- (d) For the purposes of this Article, a motion picture film or view shall be considered of such a character that its exhibition would tend to incite to crime if the theme or the manner of its presentation presents the commission of criminal acts or contempt for law as constituting profitable, desirable, acceptable, respectable or commonly accepted behavior, or if it advocates or teaches the use of, or the methods of use of, narcotics or habit-forming drugs.

Our cumulative experience in administering the law can produce no talismanic formula whereby we can escape an instance-by-instance, case-by-case application of the laws to all of the variety of situations. The task is onerous and exacting, demanding as it does the utmost discipline in objectivity and the severest control of personal predilections.

It has been our practice to report to the Executive each year, on the development of the law applicable to motion picture censorship, found in opinions of State and Federal Courts, and opinions of the Attorney General of Maryland.

Last year, attention was focused on Court decisions which confined within an ever narrowing perimeter, the permissible scope of Motion Picture Censorship. In particular, the Justices of the Supreme Court of the United States in the case of Roth and Albers (June 1957), rejected any test which deals with subject matter arousing sexual desires or impure thoughts in the young, the immature or the highly prudish. In like manner, they said, no test based on the indifference of the scientific or the so called worldly wise and sophisticated, would be valid.

Due to the increasing number of films exploiting nudity and sex, falling short of statutory prohibition, this Board again recommended that it be given authority by the Legislative Session of 1959, to license certain films as restricted for those under 16 years of age, when such films could not be otherwise denied a license. We were of the opinion that the restrictions being imposed by the Courts on prior restraint, had reached a point where the effects of certain films on children presented a clear and present danger to their well being, and required additional restrictions as to them.

The Legislature defeated the Bill embodying the recommendations of this Board, but, as a result thereof, passed House Bill 172, which adds a new Section 418A, to Article 27 of the Annotated Code of Maryland (1957 Edition) titled "Crimes and Punishments." Under "Obscene Motion Pictures," the law makes it a crime to exhibit obscene or corrupting motion pictures to minors. Your Excellency signed the Bill into law, effective June 1, 1959, which provides:

"Obscene Motion Pictures"

418A: It shall be unlawful for any person to knowingly exhibit a motion picture film to a minor under the age of 18 years which for such minor would be:

- (a) obscene, indecent or immoral, or
- (b) of such character that its exhibition would tend to debase or corrupt morals of such minor as aforesaid."

The enforcement of this law is outside of the scope of this Board, and rests with the enforcement officials of the State.

The effect of motion pictures on the public, and particularly the young, has engaged the attention of the New York Legislature for years. The results of the latest findings of the Joint Legislative Committee studying the publication and dissemination of offensive and obscene material, published in 1958, were:

1. "That, newspaper and billboard advertising for motion pictures is becoming increasingly objectionable with lewd displays to attract the prurient-minded and with presentations of horror and terror.
2. That, these advertisements frequently distort the character or content of the motion picture actually shown.
3. That, parents and public officials have reason to be seriously concerned with the potential effect of a constant mass media diet of sex, crime, horror, terror and violence upon the mental and spiritual development of the children of this State.
4. That, there is need for a positive campaign to promote decent reading material and morality in all forms of entertainment.
5. That, the Legislature must remain constantly alert to changing developments in the field of obscenity and must stand ready at all times to provide such amendments to the law as may be necessary to control and punish those seeking to construe freedom of speech as a license to contaminate for profit."

J. Edgar Hoover, Director of the Federal Bureau of Investigation has cautioned that "There is today a vicious movement to undermine the traditional spiritual and moral principles of our nation. Freedom, divorced from authority and discipline, is a frightening thing and is the first step toward total moral degeneration."

Heretofore, this Board has viewed films to which has been applied a portion of the Maryland Censorship law, found in Section 6 (c), prohibiting films which tend to debase or corrupt morals by portraying acts of sexual immorality, or if it expressly or impliedly presents such acts as desirable, acceptable or

proper patterns of behavior. The law of New York is similarly worded, and pursuant thereto, the Board of that State ordered deletions in the film "Lady Chatterley's Lover," which they said presented adultery as proper behavior. The test case thus created, finally reached the Supreme Court of the United States, which, on June 29, 1959, reversed the action taken by the New York Censor Board. (*Kingsley International Pictures Corporation vs. The Regents of the University of the State of New York* #394, October term 1958. 27 Law Week 4492)

An appeal had been taken from the New York Court of Appeals which rejected any notion that the film is obscene. Rather, that Court found, the picture as a whole "alluringly portrays adultery as proper behavior." Chief Judge Conway, speaking for the New York Court said:

"It is curious indeed to say in one breath, as some do, that obscene motion pictures may be censored, and then in another breath that motion pictures which alluringly portray adultery as proper and desirable may not be censored. As stated above, 'the law is concerned with effect, not merely with one means of producing it.' It must be firmly borne in mind that to give obscenity, as defined, the stature of the only constitutional limitation is to extend an invitation to corrupt the public morals by methods of presentation which craft will insure do not fall squarely within the definition of that term. Precedent, just as sound principle, will not support a statement that motion pictures must be 'out and out' obscene before they may be censored."

However, the Supreme Court unanimously held, that in any event the law had been improperly applied to the picture, in that adultery had not been presented as proper behavior. Then, they accepted the premise that the motion picture can be characterized as stated by the New York Court but on grounds that exceeded the appropriate limits for decision, held by a bare majority, that the section of law involved, is unconstitutional. They emphasized that "sexual immorality" has a concept entirely different from the concept embraced in words like "obscenity" or "pornography". Moreover, they said, it is not suggested that the film would itself operate as an incitement to illegal action. Mr. Justice Stewart, speaking for the Supreme Court of the United States, continued:

"What New York has done, therefore, is to prevent the exhibition of a motion picture because that picture advocates an idea—that adultery under certain circumstances may be proper behavior. Yet the First Amendment's basic guarantee is of freedom to advocate ideas. The State, quite simply, has thus struck at the very heart of constitutionally protected liberty. It is contended that the State's action was justified because the motion picture attractively portrays a relationship which is contrary to the moral standards, the religious precepts, and the legal code of its citizenry. This argument misconceives what it is that the Constitution protects. Its guarantee is not confined to the expression of ideas that are conventional or shared by a majority. It protects advocacy of the opinion that adultery may sometimes be proper, no less than advocacy of socialism or the single tax.

Among free men, the deterrents ordinarily to be applied to prevent crimes are education and punishment for violations of the law, not abridgement of the rights of free speech."

Immediately following the "Lady Chatterley" opinion, on July 1, 1959, this Board requested the Attorney General of Maryland to consider the Maryland law as set forth in sections 6 (c) and (d), due to the similarity of its language with the law ruled unconstitutional by the Supreme Court. We required a ruling as to which portions if any, may not hereafter be applied to motion pictures. C. Ferdinand Sybert, Esq., Attorney General, in a careful and learned opinion rendered on July 29, 1959, reviewed the Chatterley opinion and

the Maryland law, and concluded that only the section involving the presentation of immorality as proper conduct, need now be eliminated. As to the remaining sections, he ruled that even though the same reasoning of the Supreme Court may be applicable, any doubts should be resolved in favor of their constitutionality, until properly presented to the Courts for final decision. The ruling concluded with:

"In the absence of a decision of the Supreme Court of the United States, or of one of our State Courts, specifically invalidating the provisions of Article 66A 6(c) and 6(d), we must under the restraint of the Maryland Constitution refrain from declaring them unconstitutional.

You are therefor advised that you should continue to carry out all of the provisions of section 6(c) and (d) except that portion thereof which declares that the portrayal of sexual immorality as a desirable, acceptable or proper pattern of behavior in a film makes it of such a character that its exhibition would tend to debase or corrupt morals. The Supreme Court specifically held a similar provision contained in the New York statute to be unconstitutional in the *Kingsley* Case, and we must perforce follow the decision of the judiciary that that part of the statute is invalid."

Thus, permissible censorship has been further restricted, with restraint on pictorial immorality gone, and the constitutionality of the remaining sections of Maryland law suspect, except obscenity.

The results of the Chatterley decision were received by the Motion Picture Industry with restraint. While they contend that the many cities, which exercise no official motion picture censorship, furnish evidence that community morals are not inextricably tied to this device for the curtailment of free expression, nevertheless industry spokesmen have cautioned that "it requires no powers of prophecy and no crystal ball to predict that the blatant parading of sex—as pornographic as laws and customs will permit—is going to lead to nothing but trouble.

It is our considered opinion that there is an evil against which a State may constitutionally protect itself, whatever one may think about the questions of policy involved. "The real problem," says Mr. Justice Frankfurter, "is the formulation of constitutionally allowable safeguards which society may take against evil without impinging upon the necessary dependence of a free society upon the fullest scope of free expression."

The difficulty of reconciling these conflicting interests is recognizable even for those who most generously espouse freedom of expression without which all freedom gradually withers. The legislation must not be so vague, the language so loose, as to leave to those who have to apply it too wide a discretion for sweeping within its condemnation what is permissible expression as well as what society may permissibly prohibit. Courts have struck down legislation phrased in language intrinsically vague, unless it be responsive to the common understanding of men even though not susceptible of explicit definition.

Prior restraint of motion pictures continues to be administered by this Board with legal controls embattled and weakened, but the citizenry may yet bring into sensible balance the differences between the legally acceptable and the morally objectionable, by the force of their own opinions, through economic sanctions.

Respectfully submitted,

C. MORTON GOLDSTEIN, *Chairman*
NORMAN C. MASON, *Vice-Chairman*
WALTER S. RINGLER, *Secretary*

July 31, 1959

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

For the Fiscal Year Ended June 30, 1959

RECEIPTS

FEES:

| | | |
|---|-------------|-------------|
| Original Reels—35MM (5,098,088 ft.)----- | \$16,689.00 | |
| Original Reels—16MM (4,028 ft.)----- | 20.00 | |
| | | \$16,709.00 |
| Duplicate Reels—35MM (42,646,521 ft.)----- | \$45,504.00 | |
| Duplicate Reels—16MM----- | | |
| | | \$45,504.00 |
| Sale of Substitute Seals (917)----- | | 917.00 |
| | | \$63,130.00 |
| Deposited to Credit of State Treasurer----- | | \$63,130.00 |

EXPENSES

SALARIES:

| | | |
|----------------------|-------------|-------------|
| Board Members----- | \$9,201.55 | |
| Other Employees----- | \$38,379.54 | |
| | | \$47,581.09 |

OTHER EXPENSES:

| | | |
|--|----------|-------------|
| Communication----- | \$933.92 | |
| Contractural Services, Office----- | 254.59 | |
| Printing----- | 580.50 | |
| Office Supplies----- | 539.74 | |
| Office Equipment, Replacement----- | 113.80 | |
| Office Equipment, Additional----- | 460.94 | |
| Office Rent----- | 6,000.00 | |
| Insurance and Bonds----- | 38.75 | |
| Contractural Services, Motion Picture----- | 1,813.04 | |
| Motion Picture Machine Supplies----- | 131.94 | |
| Motion Picture Equipment, Replacement----- | 307.25 | |
| Technical & Special Fees----- | 3,125.00 | |
| Travel----- | 1,192.91 | |
| Motor Vehicle Operation & Maintenance----- | 439.89 | |
| Contractural Service, Moving----- | 1,870.13 | |
| | | \$17,802.40 |
| | | \$65,383.49 |

BUDGET ACCOUNT (Per Comptroller)

| | | |
|-------------------------------------|-------------|-------------|
| Appropriations, 1959----- | \$67,316.00 | |
| | | \$67,316.00 |
| Less Reversion to Reserve Fund----- | | 1,932.51 |
| | | \$65,383.49 |
| General Fund Disbursement----- | | \$65,383.49 |

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS
TABLE SHOWING TOTAL ANNUAL RECEIPTS AND DISBURSE-
MENTS TOGETHER WITH THE AMOUNTS REVERTING
TO THE STATE TREASURY

October 1, 1920-June 30, 1959

| | Receipts | Disbursements | Amount Reverting to State Treasury |
|--------------------|----------------|----------------|--|
| 10-1-20 to 9-30-21 | \$26,488.33 | \$19,025.26 | \$7,463.07 |
| 10-1-21 to 9-30-22 | 26,866.90 | 19,842.12 | 7,024.78 |
| 10-1-22 to 9-30-23 | 27,059.51 | 19,892.93 | 7,166.58 |
| 10-1-23 to 9-30-24 | 26,338.50 | 20,730.44 | 5,608.06 |
| 10-1-24 to 9-30-25 | 29,249.50 | 22,207.24 | 7,042.26 |
| 10-1-25 to 9-30-26 | 30,207.92 | 22,662.82 | 7,545.10 |
| 10-1-26 to 9-30-27 | 32,498.55 | 24,883.80 | 7,614.75 |
| 10-1-27 to 9-30-28 | 38,165.57 | 27,734.69 | 10,430.88 |
| 10-1-28 to 9-30-29 | 44,486.27 | 32,937.76 | 11,548.51 |
| 10-1-29 to 9-30-30 | 38,954.98 | 31,718.26 | 7,236.72 |
| 10-1-30 to 9-30-31 | 35,245.85 | 31,816.79 | 3,429.06 |
| 10-1-31 to 9-30-32 | 35,637.44 | 32,158.81 | 3,478.63 |
| 10-1-32 to 9-30-33 | 35,152.34 | 34,207.93 | 944.41 |
| 10-1-33 to 9-30-34 | 36,563.00 | 37,174.49 | 9,388.51 |
| 10-1-34 to 9-30-35 | 39,463.00 | 27,577.76 | 11,885.24 |
| 10-1-35 to 9-30-36 | 44,073.00 | 28,927.98 | 15,145.02 |
| 10-1-36 to 9-30-37 | 49,293.00 | 28,855.10 | 20,437.90 |
| 10-1-37 to 9-30-38 | 48,659.00 | 30,197.34 | 18,461.66 |
| 10-1-38 to 9-30-39 | 50,180.00 | 30,302.92 | 19,877.08 |
| 10-1-39 to 9-30-40 | 53,180.00 | 29,598.72 | 23,581.28 |
| 10-1-40 to 9-30-41 | 55,877.00 | 30,347.18 | 25,529.82 |
| 10-1-41 to 9-30-42 | 55,561.00 | 31,135.92 | 24,425.08 |
| 10-1-42 to 6-30-43 | 39,828.00 | 22,578.29 | 17,249.71 |
| 7-1-43 to 6-30-44 | 55,585.00 | 35,112.59 | 20,472.41 |
| 7-1-44 to 6-30-45 | 55,054.00 | 35,090.08 | 19,963.92 |
| 7-1-45 to 6-30-46 | 59,396.00 | 35,802.90 | 23,593.10 |
| 7-1-46 to 6-30-47 | 65,961.00 | 42,150.48 | 23,810.52 |
| 7-1-47 to 6-30-48 | 72,832.00 | 44,814.74 | 28,017.26 |
| 7-1-48 to 6-30-49 | 78,606.00 | 47,468.24 | 31,137.76 |
| 7-1-49 to 6-30-50 | 82,328.00 | 48,565.63 | 33,762.37 |
| 7-1-50 to 6-30-51 | 79,885.00 | 47,689.30 | 32,195.70 |
| 7-1-51 to 6-30-52 | 82,343.00 | 55,671.29 | 26,671.71 |
| 7-1-52 to 6-30-53 | 75,530.00 | 55,853.09 | 19,676.91 |
| 7-1-53 to 6-30-54 | 76,865.00 | 66,106.50 | 10,758.50 |
| 7-1-54 to 6-30-55 | 73,884.00 | 66,917.53 | 6,966.47 |
| 7-1-55 to 6-30-56 | 73,055.00 | 63,977.38 | 9,077.62 |
| 7-1-56 to 6-30-57 | 71,387.00 | 61,974.56 | 9,412.44 |
| 7-1-57 to 6-30-58 | 68,219.00 | 64,294.45 | 3,924.55 |
| 7-1-58 to 6-30-59 | 63,130.00 | 65,383.49 | |
| | \$2,033,088.66 | \$1,463,386.80 | \$571,955.35 |

* The above amount reverting to State Treasury does not include \$19,487.38 for period 6-1-16 to 9-30-20.

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

CLASSIFICATION OF FILMS

July 1, 1958—June 30, 1959

| 1958 | Features | Short Subjects | Cartoons | Serials | Adver- tising | Misc. |
|----------------|----------|-------------------|----------|---------|------------------|-------|
| July..... | 519 | 21 | 66 | 10 | 3 | 0 |
| August..... | 501 | 21 | 122 | 0 | 2 | 0 |
| September..... | 462 | 23 | 68 | 0 | 5 | 0 |
| October..... | 533 | 76 | 186 | 0 | 18 | 0 |
| November..... | 378 | 45 | 98 | 3 | 7 | 0 |
| December..... | 448 | 38 | 326 | 12 | 6 | 0 |
| 1959 | | | | | | |
| January..... | 392 | 51 | 89 | 15 | 8 | 0 |
| February..... | 409 | 22 | 110 | 11 | 4 | 0 |
| March..... | 362 | 27 | 64 | 4 | 3 | 0 |
| April..... | 410 | 18 | 74 | 9 | 5 | 0 |
| May..... | 462 | 32 | 142 | 8 | 5 | 0 |
| June..... | 500 | 51 | 95 | 8 | 5 | 0 |
| TOTALS:..... | 5,376 | 425 | 1,440 | 80 | 71 | 0 |

SUMMARY OF REPORT

| | | | | | |
|--|-------|--------|--------|------------|-------|
| Films, Original..... | 1,076 | | | | |
| Films, Duplicate..... | 6,316 | | | | |
| Reels, Original..... | | 6,346 | | | |
| Reels, Duplicate..... | | 52,782 | | | |
| Number of Feet, Original..... | | | | 5,102,116 | |
| Number of Feet, Duplicate..... | | | | 42,646,521 | |
| Films Approved, Original..... | | | | | 1,057 |
| Films Approved, Duplicate..... | | | | | 6,302 |
| Films Modified in Part, Original..... | | | | | 19 |
| Films Modified in Part, Duplicate..... | | | | | 14 |
| Films Denied..... | | | | | 0 |
| TOTALS..... | | 7,392 | 59,128 | 47,748,637 | 7,392 |

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

REPORT OF FILMS EXAMINED

July 1, 1958—June 30, 1959

| 1958 | Films Original | Films Duplicate | Reels Original | Reels Duplicate | No. of Ft. Original | No. of Ft. Duplicate | Films Approved | Films Modified | | Films Denied |
|----------------|-------------------|--------------------|-------------------|--------------------|------------------------|-------------------------|-------------------|----------------------|-----------------------|-----------------|
| | | | | | | | | In Part, Original | In Part, Duplicate | |
| July----- | 67 | 552 | 380 | 4,521 | 300,845 | 3,685,773 | 613 | 5 | 1 | 0 |
| August----- | 63 | 583 | 418 | 4,776 | 330,504 | 3,831,683 | 646 | 0 | 0 | 0 |
| September----- | 74 | 484 | 495 | 4,711 | 397,567 | 3,766,365 | 554 | 4 | 0 | 0 |
| October----- | 111 | 702 | 535 | 5,321 | 429,779 | 4,297,785 | 812 | 1 | 0 | 0 |
| November----- | 69 | 462 | 430 | 3,999 | 352,618 | 3,148,042 | 528 | 0 | 3 | 0 |
| December----- | 136 | 694 | 539 | 4,375 | 426,664 | 3,533,498 | 828 | 2 | 0 | 0 |
| 1959 | | | | | | | | | | |
| January----- | 120 | 435 | 788 | 3,352 | 650,502 | 2,688,489 | 552 | 2 | 1 | 0 |
| February----- | 92 | 464 | 460 | 3,990 | 363,448 | 3,255,073 | 555 | 0 | 1 | 0 |
| March----- | 77 | 383 | 527 | 4,057 | 428,095 | 3,265,613 | 458 | 1 | 1 | 0 |
| April----- | 84 | 432 | 624 | 3,507 | 509,377 | 2,889,259 | 514 | 1 | 1 | 0 |
| May----- | 94 | 555 | 589 | 4,730 | 470,414 | 3,852,704 | 642 | 3 | 4 | 0 |
| June----- | 89 | 570 | 561 | 5,443 | 442,303 | 4,432,237 | 657 | 0 | 2 | 0 |
| TOTALS----- | 1,076 | 6,316 | 6,346 | 52,782 | 5,102,116 | 42,646,521 | 7,359 | 19 | 14 | 0 |